

CHANGEU.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

2150.3A CHG 23

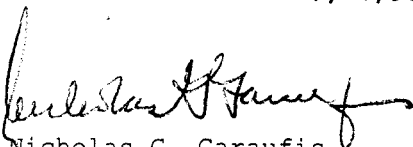
10/30/96

SUBJ: COMPLIANCE AND ENFORCEMENT PROGRAM

1. PURPOSE. This change transmits corrected pages from Figure 12-9, Figure 12-19, Figure 12-20, and Figure 12-26 of Chapter 12, LEGAL ENFORCEMENT ACTION.
2. EXPLANATION OF CHANGES. Section 13.15 of Title 14, Code of Federal Regulations, allows an alleged violator 30 days from the date of receipt to respond to a civil penalty letter. The corrected page from Figure 12-9 brings this sample information sheet into conformity with the regulation. The corrected page in Figure 12-19 deletes former paragraph 6, referring to compromise orders as an option available to alleged violators. It also corrects the information provided in renumbered paragraph 6 (formerly paragraph 7) on the availability of judicial review. The corrected page from Figure 12-20 deletes option 6, corresponding to the former Figure 12-19, paragraph 6's reference to compromise orders. The corrected page from Figure 12-26 deletes the reference to 49 CFR Part 821 from the second sentence in the second paragraph inasmuch as the National Transportation Safety Board provides a copy of 49 CFR Part 821 to persons appealing to the Board from FAA orders.
3. DISPOSITION OF TRANSMITTAL. After filing the attached pages, this transmittal should be retained.

PAGE CONTROL CHART

Remove Pages	Dated	Insert Pages	Dated
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		viii	7/16/96
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		184-2	7/16/96
203-3 thru 203-5	7/16/96	203-3 thru 203-4	10/30/96
204-1 thru 204-3	7/16/96	204-1	7/16/96
		204-2 thru 204-3	10/30/96
212-1 thru 212-2	12/14/88 &	212-1	12/14/88
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Nicholas G. Garaufis
Chief Counsel

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**FIGURE 12-9. SAMPLE INFORMATION SHEET TO ACCOMPANY
A CIVIL PENALTY LETTER**

INFORMATION REGARDING CIVIL PENALTIES
UNDER TITLE 49 U.S.C. SECTION 46301

*

Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101, et seq., or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum civil penalty for each violation is also prescribed by law, as specified in the letter to which this is attached.

The statute authorizes the Administrator to compromise civil penalties. The attached letter states the sum that the FAA would accept in full settlement of the alleged violation or violations described therein. Your acceptance of the settlement proposed in the attached letter will not constitute an admission of the alleged violation(s).

You are not required to accept the offer of settlement in the attached letter or to make a counter-offer of settlement. If you do not wish to settle the case, the matter will be presented to a U.S. attorney, who may bring a civil action for the full amount of the civil penalty prescribed by law. A U.S. district court will decide all issues of fact and law, following a trial at which you will have the right to present evidence on your behalf and cross-examine the Administrator's witnesses.

WITHIN THIRTY (30) DAYS FROM THE RECEIPT OF THIS LETTER, you may proceed in one of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount suggested in the attached letter, by certified check or money order payable to the

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Federal Aviation Administration, to the Office of Accounting, [insert address of appropriate accounting office].

2. You may wish to have the issues of fact and law in this matter decided by the U.S. district court. If so, please advise us immediately.

3. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant the proposed civil penalty. The FAA will consider the information you provide in determining whether, or not, to pursue a civil penalty action by forwarding the matter to the Department of Justice for prosecution or not as well as the amount of any civil penalty sought. You may submit this information in conjunction with a request for an informal conference under paragraph 4.

4. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

*

6. You may request a hearing in accordance with section 13.16 of the FAR. Your request must be dated and signed. If you request a hearing, a Complaint will be filed and an administrative law judge will be appointed to decide the case. At a hearing, held under Subpart G of 14 C.F.R. Part 13, the agency will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. At the conclusion of the hearing, all issues of fact and law will be decided and a decision will be rendered whether, and in what amount, a civil penalty will be assessed. If either party, the agency or you, is dissatisfied with the judge's decision, that party can appeal the judge's decision to the FAA decisionmaker. If you are dissatisfied with the FAA decisionmaker's decision, you may seek review of the FAA decisionmaker's decision in an appropriate United States district court.

Your request for a hearing must be made to the Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC, 20591, Attention: Hearing Docket Clerk. You must mail a copy to the FAA attorney handling this case at the address indicated below.

Please address all communications in this matter to the FAA attorney specified in the Notice at the following address:

Office of the Assistant Chief Counsel
ADDRESS

Your response to the Notice of Proposed Civil Penalty may be delivered personally to the Office of the Assistant Chief Counsel for the _____ Region at the above address during normal business hours.

Telephone: _____ (Collect calls cannot be accepted).

*

10/30/96

If you are an individual:

PRIVACY ACT NOTICE

This notice is provided in accordance with Section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting your telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

D. Effect of failure to respond: If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case, and you may forfeit your right to a hearing on the merits of this case.

**FIGURE 12-20. SAMPLE REPLY TO NOTICE OF PROPOSED CIVIL PENALTY
(HAZARDOUS MATERIALS)**

Date_____

Office of the Assistant Chief Counsel
Federal Aviation Administration
ADDRESS

Subject: Notice of Proposed Civil Penalty(HM)

In reply to your Notice of Proposed Civil Penalty, I elect to proceed as indicated by my check mark beside the numbered paragraph(s) below:

1. ☐ I hereby submit the amount of the proposed civil penalty with the understanding that an order assessing a civil penalty will be issued in that amount without further notice. I understand that I have waived my right to a hearing.

2. ☐ I hereby submit evidence and information, demonstrating that a violation of the regulations did not occur as alleged or that the amount of the penalty is not warranted by the circumstances.

3. ☐ I hereby submit information and records showing that I am financially unable to pay the proposed civil penalty, or that payment of the penalty would prevent me from continuing in business.

4. ☐ I hereby request that the proposed civil penalty be assessed in the amount of \$_____ and I submit the reasons for the reduction of the proposed amount. My request constitutes my agreement that if this offer is accepted by the FAA, an order assessing civil penalty in the amount I have specified may be issued without further notice. My request also constitutes my agreement that I have waived my right to a hearing.

*

5.a. [] I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here: () _____). You will be provided at least 2 weeks advance notice of the date and time of this conference.) NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b. [] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at _____ (choose an FAA office from the attached list).

c. [] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at _____. I am requesting an in-person informal conference at this location because _____

_____. I have also indicated an alternate location from the attached list under item 5.b. in the event the FAA is unable to grant my request under this option.

6. [] I hereby request a hearing in accordance with Subpart G of Part 13 of the Federal Aviation Regulations (14 CFR 13, Subpart G) with the understanding that a Complaint will be filed. I request that the hearing be held in _____. I am sending this request both to the FAA attorney and to the Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC, 20591, Attention: Hearing Docket Clerk.

Signature: _____

Name: _____

Address: _____

*

Telephone: _____
Date: _____
Case No.: _____

[] I request that future documents in this case be sent to my representative:

Name: _____
Address: _____
Telephone: _____

12/14/88

2150.3A

**FIGURE 12-25. SAMPLE LETTER TO U.S. ATTORNEY
(Aircraft Seizure)**

June 10, 1988

Edward F. Noone, Esq.
United States Attorney
Southern District of Florida
Miami, Florida

Dear Mr. Noone:

This is with further reference to our telephone conversation of June 9, 1988, pertaining to the seizure of a Douglas DC-8 aircraft, Registration No. N8989, from the P & Q Corporation.

Pursuant to the requirement contained in Title 49 U.S.C. Section 1473(b)(2), we wish to report that such aircraft was seized by Inspector John B. Quick, Federal Aviation Administration, Miami, Florida, at Broward County International Airport, Fort Lauderdale, Florida, at 2:45 p.m. on June 8, 1988.

Inasmuch as the seizure of this aircraft took place within the Southern District of Florida, pursuant to the above statute, we request that you institute appropriate proceedings for the enforcement of the liens to which this aircraft is subject.

In order to facilitate your commencement of the lien proceedings, we have enclosed a draft of a libel of information. The violations of the Federal Aviation Act of 1958, as amended, and of the Federal Aviation Regulations, upon which this seizure is based, are fully set forth in the draft libel of information.

We realize that these proceedings will require considerable additional information, as well as cooperation by this office. Therefore, please do not hesitate to contact us at any time.

Sincerely yours,

Assistant Chief Counsel

Enclosure

(FOR INDIVIDUALS ACTING AS PILOTS, MECHANICS,
FLIGHT ENGINEERS, AND REPAIRMEN)

FIGURE 12-26. SAMPLE INFORMATION SHEET TO ACCOMPANY
NOTICE OF PROPOSED ASSESSMENT

INFORMATION REGARDING CIVIL PENALTIES
UNDER TITLE 49 U.S.C. SECTION 46301

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Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101 et seq., or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum assessment for each violation is prescribed by law, as specified in the notice to which this is attached. The notice also states the amount of the proposed assessment of civil penalty for the alleged violation(s).

This proceeding is governed by applicable sections of 14 CFR Part 13 and by 49 C.F.R. Part 821. A copy of the relevant sections from 14 CFR Part 13 is enclosed. WITHIN FIFTEEN (15) DAYS AFTER YOU RECEIVE THE NOTICE TO WHICH THIS INFORMATION SHEET IS ATTACHED, you may elect to proceed in one or more of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount of the civil penalty specified in the notice by certified check or money order payable to the "Federal Aviation Administration" to the Office of Accounting [insert address of appropriate accounting office]. SUBMITTING THE AMOUNT OF CIVIL PENALTY CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF ASSESSMENT IN THAT AMOUNT MAY BE ISSUED WITHOUT FURTHER NOTICE. IT ALSO CONSTITUTES YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING IN THIS MATTER.

*

